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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/737,138	12/14/00	BREED	ATI-259
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PM82/0320

EXAMINER

TO, T

ART UNIT	PAPER NUMBER
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3619

DATE MAILED: 03/20/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/737,138	Applicant(s) BREED ET AL.	
	Examiner Toan C To	Art Unit 3619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- | | |
|---|--|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The specification is objected to because the following informalities:

Lines 6-7 under "Cross Reference To Related Application" contain "Ser. No. 08/040,978 filed Mar. 31, 1993, now abandoned, which in turn is a continuation-in-part of U.S application Ser. No. 07/878,571 filed May 5, 1992", which is improper because Ser. No. 08/040,978 filed Mar. 31, 1993 that was after U.S application Ser. No. 07/878,571 was abandoned on Mar. 3, 1993. There is no continuity between application '978 and '571.

Similarly, lines 7-8 under "Cross Reference To Related Application" contain "a continuation-in-part of U.S application Ser. No. 08/905,876 filed Aug. 4, 1997, now U.S patent No. 5,848,802" which is improper because the instant application filed Dec. 14, 2000 that was after U.S application Ser. No. 08/905,876 was patented on December 15, 1998. There is no continuity between application '876 and the instant application.

Line 10 under "Cross Reference To Related Application" contains "the '978 application" which is unclear whether applicant referred to U.S Ser. No. 08/239,978 or 08/040,978.

It is unclear how the instant application is related to other U.S applications as stated in the second paragraph under "Cross Reference To Related Application".

Correction is required. See MPEP § 608.01(b).

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Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the side air bag and control circuit must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al (U.S. 6,020,812) in view of Varga et al (U.S. 5,943,295).

Thompson et al discloses a vehicle having an arrangement for controlling deployment of a side airbag with the following: determining means (16) for determining the position of at least a part of occupant; a control circuit (180) couple to the determining means (16) for controlling deployment of the side airbag (42b, also see column 4, paragraph 3-4 and column 5, paragraph 1).

Thompson discloses every element of the invention as discussed above except the following: the determining means comprise receiver; processor and transmitter; wherein receiver include an ultrasonic transducer and at least on receiver capable of receiving electromagnetic waves.

Varga et al teaches a vehicle having an arrangement for controlling deployment of a side air bag with the following: the determining means comprise receiver (111), processor (112) and transmitter (110), wherein receiver include an ultrasonic transducer and at least on receiver capable of receiving electromagnetic waves (see column 15-16 and abstract) in order to control deployment of the side airbag based on the determined position of the occupant in case collision occurred.

Regarding claims 2-4, 6-8, 12-13, and 19-20, the combination of Thompson et al and Varga discloses the claimed invention except for the receiver being mounted in a door of the vehicle/adjacent to the airbag module. It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the receiver in the door/ adjacent to the airbag module, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a vehicle having an arrangement for controlling deployment of a side air bag of Thompson et al as taught by Varga to include the following: the determining means comprise receiver, processor and transmitter, wherein receiver include an ultrasonic transducer and at least on receiver capable of receiving electromagnetic waves in order to control deployment of the side airbag based on the determined position of the occupant in case collision occurred.

Functional recitation(s) using the word "for" (e.g. "for controlling deployment of the side airbag") have been given little patentable weight because they fail to add any

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structural limitations and are thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. *In re Casey*, 152 USPQ 235 (CCPA 1967); *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

5. Claims 24-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al (U.S. 6,020,812) in view of Varga et al (U.S. 5,943,295).

Thompson et al discloses a method for controlling deployment of a side airbag with the following steps: determining the position (16) of at least a part of occupant; controlling deployment of the side airbag (180) base on the determined position of the at least part of the occupant (42b, also see column 4, paragraph 3-4 and column 5, paragraph 1).

Thompson discloses every element of the invention as discussed above except the following steps: determining the position of at least a part of occupant by transmitting wave, receiving wave and generating a signal representative of the occupant position ; wherein receiving wave include an arranging of an ultrasonic transducer.

Varga et al teaches a method for controlling deployment of a side airbag with the following steps: determining the position of at least a part of occupant by transmitting wave (110), receiving wave (111) and generating a signal (112) representative of the

occupant position ; wherein receiving wave (110) include an arranging of an ultrasonic transducer (see column 15-16 and abstract) in order to control deployment of the side airbag based on the determined position of the occupant during lateral directional collision.

Regarding 26-27, 29-30, 34-35, and 38-39, the combination of Thompson et al and Varga discloses the claimed invention except for method of mounting a transducer in the door of vehicle/adjacent to the airbag module. It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the a transducer in the door/ adjacent to the airbag module, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a method for controlling deployment of a side air bag of Thompson et al as taught by Varga to include the following: determining the position of at least a part of occupant by transmitting wave, receiving wave and generating a signal representative of the occupant position ; wherein receiving wave include an arranging of an ultrasonic in order to control deployment of the side airbag based on the determined position of the occupant during lateral directional collision.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure includes the following: Blackburn et al (U.S. 6,018,693), Graye et

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al (U.S. 5,997,033), Stanley (U.S. 6,007,095), Kithil et al (U.S. 6,014,602), Jinno et al (U.S. 5,948,031), White et al (U.S. 5,071,160), Fujita et al (U.S. 5,074,583), and Schweizer (U.S. 6,029,105) disclose the claimed limitations as discussed above.

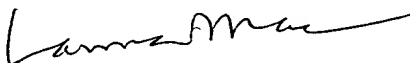
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan To whose telephone number is (703) 306-5951. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai, can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-2571.

Any inquiry of a general nature or relating to the status of this application or this application or proceeding should be directed to the receptionist whose telephone number is (703)305-1113.

To, T

March 9, 2001



LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600